

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

MICHAEL HOLMBERG,

Plaintiff,

v.

ELDON VAIL, et al.,

Defendants.

CASE NO. C11-5449 BHS

ORDER ADOPTING REPORT
AND RECOMMENDATION

This matter comes before the Court on the Report and Recommendation (“R&R”) of the Honorable Karen L. Strombom, United States Magistrate Judge (Dkt. 49) and Plaintiff Michael Holmberg’s objections to the R&R (Dkt. 50).

On September 10, 2012, Judge Strombom issued the R&R recommending that the Court grant Defendant Cheryl Sullivan’s (“Sullivan”) motion for summary judgment on Holmberg’s two remaining claims, retaliation and violation of due process. Dkt. 49. On October 1, 2012, Holmberg filed objections to the R&R and argued that he should be allowed an opportunity to obtain additional discovery. Dkt. 50. While it is correct that a nonmovant may request an extension of time to seek additional discovery, the nonmovant must particularly identify the relevant discovery that he seeks to obtain. Fed. R. Civ. P.

1 56(d). Holmberg argues that the Court should grant him an extension to obtain evidence
2 of an unlawful pattern or practice by the mailroom to unlawfully withhold prisoners'
3 mail. Dkt. 50 at 3. This issue is outside the scope of Holmberg's complaint and, even if
4 such evidence was obtained, it is irrelevant to Holmberg's claims.

5 Therefore, the Court having considered the R&R, Holmberg's objections, and the
6 remaining record, does hereby find and order as follows:

- 7 (1) Holmberg's request for an extension is **DENIED**;
- 8 (2) The R&R is **ADOPTED**;
- 9 (3) The Clerk shall enter **JUDGMENT** in favor of Sullivan; and
- 10 (4) Holmberg's *in forma pauperis* status is **REVOKED**.

11 Dated this 1st day of November, 2012.

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14 BENJAMIN H. SETTLE
United States District Judge